

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



THOMAS JEROME TAYLOR,

Petitioner,

v.

Civil Action No. 2:18-cv-236

J. RAY ORMOND,

Respondent.

FINAL ORDER

Before the Court is a petition for a writ of habeas corpus (ECF No. 1) filed pursuant to 28 U.S.C. § 2241, and the Respondent's motion to dismiss (ECF No. 7). In 2006, Petitioner pled guilty and was sentenced in the United States District Court for the Middle District of North Carolina to one count of possession with intent to distribute cocaine base in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B). *United States v. Taylor*, 1:05cr418 (M.D.N.C. Aug. 23, 2006) (ECF No. 24). Based on two prior North Carolina convictions, ECF No. 8, attach. 1, Petitioner was classified as a career offender under U.S.S.G. § 4B1.1 and was sentenced to 195 months of imprisonment. *Id.* In his petition, the *pro se* Petitioner seeks resentencing without the Career Offender enhancement pursuant to the ruling in *Johnson v. United States*, 135 S. Ct. 2551 (2015) and in light of *United States v. Wheeler*, 886 F.3d 415 (4th Cir. 2018) allowing 28 U.S.C. § 2255(e) savings clause to provide relief.

The matter was referred for disposition to a United States Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(B)-(C), Federal Rule of Civil Procedure 72(b), Local Civil Rule 72, and the April 2, 2002 Standing Order on Assignment of Certain Matters to United States Magistrate

Judges. In a Report and Recommendation entered on May 24, 2019 (ECF No. 10), the Magistrate Judge recommended the motion to dismiss be granted, and the petition be denied and dismissed with prejudice. The parties were advised of their right to file written objections to the Report and Recommendation. Neither the Petitioner nor the Respondent filed objections with the Court and the time to do so has expired.¹

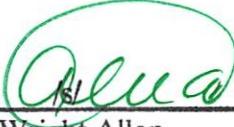
Having reviewed the record and having heard no objection, the Court agrees with the Report and Recommendation on the grounds stated by the Magistrate Judge and **ADOPTS** and **APPROVES** the Report and Recommendation (ECF No. 10) in its entirety as the Court's own opinion. Accordingly, the Respondent's motion to dismiss (ECF No. 7) is **GRANTED**, and the Petition (ECF No. 1) is **DENIED** and **DISMISSED WITH PREJUDICE**. It is **ORDERED** that judgment be entered in favor of the Respondent.

The Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a *written* notice of appeal with the Clerk of the Court at the Walter E. Hoffman United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date judgment is entered. Because the Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b)(1), the Court declines to issue a certificate of appealability. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

¹ On June 13, 2019, Petitioner requested an enlargement of time to file written objections to the Report and Recommendation. The Court granted the extension of time and ordered the petitioner to file his objections by July 9, 2019. ECF No. 12. The Court's Order, ECF No. 12, was returned as "not deliverable as addressed, unable to forward." ECF No. 13. The Court issued another Order, directing the Clerk to resend a copy of the Court's Order granting Petitioner's request for Enlargement of Time, to the return address listed on Petitioner's envelope and extending the time for the filing of his objections to the Report and Recommendation to August 5, 2019. ECF No. 14.

The Clerk is **DIRECTED** to forward a copy of this Order to the Petitioner and counsel of record for the Respondent.

It is so **ORDERED**.



Arenda L. Wright Allen
United States District Judge

Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia

August 17, 2019